

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Elmer H. Morris
DOCKET NO.: 03-29377.001-C-1
PARCEL NO.: 17-09-258-006

The parties of record before the Property Tax Appeal Board (hereinafter PTAB) are Elmer H. Morris, the appellant, by attorney William Seitz with the law firm of Fisk Kart Katz and Regan in Chicago and the Cook County Board of Review.

The appellant in this appeal submitted documentation to demonstrate that the subject property was improperly assessed. This evidence was timely filed by the appellant pursuant to the Official Rules of the Property Tax Appeal Board.

The board of review did not submit its "Board of Review Notes on Appeal" nor evidence in support of its assessed valuation of the subject property. The PTAB issued a default letter to the board of review on February 22, 2008.

In support of the market value argument, the appellant submitted a brief from the appellant's attorney arguing the subject's income is similar to market income and that based on the income, the subject property should have a reduction in the assessed value to reflect a lower market value. In addition, the appellant submitted an unsigned portion of a market overview from an appraiser, a brief to the board of review indicating the subject's actual income, and descriptions for three properties suggested as comparable to the subject. The appellant provided descriptions of these properties, but did not provide any market value or assessment information.

After reviewing the record and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The appellant in this appeal submitted evidence in support of the contention that the subject property was not accurately assessed. The board of review did not submit any evidence in support of its assessment

(Continued on Next Page)

LAND: \$ 93,527
IMPR.: \$148,912
TOTAL: \$242,439

Subject only to the State multiplier as applicable.

PTAB/0648JBV

of the subject property as required by Section 1910.40(a) of the Official Rules of the Property Tax Appeal Board. However, the appellant still has the burden of going forward and providing substantive evidence. *Official Rules of the Property Tax Appeal Board, Section 1910.63(b)*.

When overvaluation is claimed the appellant has the burden of proving the value of the property by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Property Tax Appeal Board, 331 Ill.App.3d 1038 (3rd Dist. 2002); Winnebago County Board of Review v. Property Tax appeal Board, 313 Ill.App.3d 179, 728 N.E.2d 1256 (2nd Dist. 2000). Proof of market value may consist of an appraisal, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. *Property Tax Appeal Board Rule 1910.65(c)*. Having considered the evidence presented, the PTAB concludes that the appellant has not met this burden and that a reduction is not warranted.

To support the argument that the subject's assessment is not reflective of the property's market value, the appellant submitted documentation showing the income and vacancy of the subject property as well as an unsigned portion of a market overview of vacancy and absorption for the second quarter of 2003 for the Chicago Metropolitan Area. The PTAB gives the appellant's argument little weight. In Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970), the court stated:

[I]t is the value of the "tract or lot of real property" which is assessed, rather than the value of the interest presently held. . . [R]ental income may of course be a relevant factor. However, it cannot be the controlling factor, particularly where it is admittedly misleading as to the fair cash value of the property involved. . . [E]arning capacity is properly regarded as the most significant element in arriving at "fair cash value".

Many factors may prevent a property owner from realizing an income from property that accurately reflects its true earning capacity; but it is the capacity for earning income, rather than the income actually derived, which reflects "fair cash value" for taxation purposes. *Id.* at 431.

Actual expenses and income based on vacancy can be useful when shown that they are reflective of the market. Although the appellant made this argument, the appellant did not demonstrate

through an expert in real estate valuation that the subject's actual income and expenses are reflective of the market. The overview submitted by the appellant did not include a signature by the appraiser, did not include any information regarding capitalization, and appears to be an incomplete document. The PTAB finds that because of these flaws, little weight can be given to the market data. The PTAB further finds the appellant did not provide sufficient evidence to establish the subject was over valued and, therefore, the PTAB finds that a reduction is not warranted.

This is a final administrative decision of the Property Tax Appeal Board which is subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code.



Chairman



Member



Member

Member



Member

DISSENTING: _____

C E R T I F I C A T I O N

As Clerk of the Illinois Property Tax Appeal Board and the keeper of the Records thereof, I do hereby certify that the foregoing is a true, full and complete Final Administrative Decision of the Illinois Property Tax Appeal Board issued this date in the above entitled appeal, now of record in this said office.

Date: April 25, 2008



Clerk of the Property Tax Appeal Board

IMPORTANT NOTICE

Section 16-185 of the Property Tax Code provides in part:

"If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing complaints with the Board of Review or after adjournment of the session of the Board of Review at which assessments for the subsequent year are being considered, the taxpayer may, within 30 days after the date of written notice of the Property Tax Appeal Board's decision, appeal the assessment for the subsequent year directly to the Property Tax Appeal Board."

In order to comply with the above provision, YOU MUST FILE A PETITION AND EVIDENCE WITH THE PROPERTY TAX APPEAL BOARD WITHIN 30 DAYS OF THE DATE OF THE ENCLOSED DECISION IN ORDER TO APPEAL THE ASSESSMENT OF THE PROPERTY FOR THE SUBSEQUENT YEAR.

Based upon the issuance of a lowered assessment by the Property Tax Appeal Board, the refund of paid property taxes is the responsibility of your County Treasurer. Please contact that office with any questions you may have regarding the refund of paid property taxes.